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**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF CALIFORNIA**

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

HOROY, INC. d/b/a ACROSS TOWN
MOVERS, a corporation, and DANIEL
E. HOMAN, an individual,
Defendants.

Case No.: '15CV0592 LAB MLB

COMPLAINT

DEMAND FOR JURY TRIAL

The United States of America, by its undersigned attorneys, alleges as follows:

1 district, with a principal place of business at 468 E. Mission Road, San Marcos,
2 California 92069.

3 9. At all times relevant in this Complaint, Defendants acted through their
4 employees and agents. Under agency principles, ATM is liable for the acts alleged
5 herein because such acts were committed by Mr. Homan and other employees or
6 agents of ATM within the scope of their actual and apparent authority and for the
7 benefit of the corporation.

8 10. Defendants are jointly and severally liable for all acts alleged herein.

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10 **FACTUAL ALLEGATIONS**

11 11. ATM is a storage facility that provides a personal, enclosed area for
12 customers to keep their goods.

13 12. Defendants contract with the Navy to provide storage for
14 servicemembers when the servicemembers are transferred or deployed.

15 13. Master Chief Ward was an active duty member in the Navy for over 30
16 years.

17 14. In or around October 2006, the Navy transferred Master Chief Ward to
18 Yokosuka, Japan.

19 15. On or about October 25, 2006, Master Chief Ward's personal property
20 was shipped to Defendants for storage pursuant to an agreement between Fleet and
21 Industrial Supply Center ("FISC") and Defendants.

22 16. The Navy extended Master Chief Ward's tour of duty in Japan beyond
23 his originally scheduled return date of December 31, 2009.

24 17. On or about December 29, 2009, FISC notified Defendants that Master
25 Chief Ward's storage account would be converted from a government account to
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1 Master Chief Ward as an individual.

2 18. On or about December 30, 2009, FISC notified Defendants that it should
3 convert Master Chief Ward's account back to the government's expense. Defendants
4 wrote on this notice that it had extended the account.

5 19. Defendants continued to send invoices charging Master Chief Ward's
6 storage expenses to the government through roughly December 2012.

7 20. Despite receiving regular payments from the United States, on June 1,
8 2011, Defendants sold Master Chief Ward's personal property in lot No. 21002 at
9 auction without obtaining a court order.

10 21. FISC learned that Defendants had auctioned Master Chief Ward's
11 property when it contacted Defendants in or around January 2013 regarding Master
12 Chief Ward's property storage agreement.

13 22. Defendants' conduct described above constitutes the enforcement of a
14 storage lien on the property or effects of a servicemember during a period of military
15 service of the servicemember without a court order, in violation of 50 U.S.C. App. §
16 537.

17 23. Master Chief Ward has been injured by, and has suffered damages as a
18 result of Defendants' illegal conduct.

19 24. Defendants had a practice of not checking customers' military status
20 before auctioning off their goods. Defendants have enforced storage liens on the
21 storage lots of ten other servicemembers without court orders since June 1, 2011.
22 Such aggrieved persons have suffered damages as a result of Defendants' conduct.

23 25. Defendants' conduct was intentional, willful, and taken in disregard for
24 the rights of Master Chief Ward and other servicemembers.

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SERVICEMEMBER CIVIL RELIEF ACT VIOLATIONS

26. The United States realleges and incorporates by reference each allegation in the preceding paragraphs as if fully set forth herein.

27. Defendants engaged in a pattern or practice of violating Section 537 of the SCRA, 50 U.S.C. App. § 537, or engaged in violations of Section 537 of the SCRA, 50 U.S.C. App. § 537 that raise an issue of significant public importance when they enforced storage liens on the property or effects of Master Chief Ward and other servicemembers during a period of military service without a court order, in violation of 50 U.S.C. App. § 537.

PRAYER FOR RELIEF

WHEREFORE, the United States prays for judgment against Defendants, jointly and severally, as follows:

1. Declare that Defendants' conduct violated the SCRA;
2. Enjoin Defendants, their agents, employees, and successors, and all other persons in active concert or participation with Defendants, from:
 - a. enforcing a storage lien on any servicemember's property or effects during a period of military service or for 90 days thereafter without a court order in violation of 50 U.S.C. App. § 537;
 - b. failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, Master Chief Ward and each other identifiable victim of Defendants' illegal conduct to the position they would have been in but for Defendants' illegal conduct;
3. Award appropriate monetary damages to Master Chief Ward and each identifiable victim of Defendants' violation of the SCRA; and

4. Assess civil penalties against Defendants in order to vindicate the public interest pursuant to 50 U.S.C. App. § 597(b)(3).

The United States further prays for such additional relief as the interests of justice may require.

DATED: March 16, 2015

Respectfully submitted,

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